

Amendment to the Drawings

The Attached sheets of Drawings are provided at the request of the Examiner in the Office action dated June 13, 2007.

Attachment: Replacement Sheet
Replaced Sheet

ground-level story.

Claim 4. (ORIGINAL) A plural-story building structure comprising

a pair of vertically spaced stories including a lower story and a higher story, with each possessing a normal full plate-height internal volume, and with the lower story additionally being characterized by an internal volume which is defined, at least in part, by an unimpeded full plate-height,

a utilities-conduit containment space in the form of a sub-story disposed independently and directly vertically intermediate said lower and higher stories, possessing a less than normal full plate-height internal volume, and adapted to contain utilities-conduit structure relevant to the supply of utilities services upwardly from said containment space toward said higher story,

utilities-conduit structure disposed within said containment space including supply-input portions adapted for connection to related utilities services supplies which are external to the building structure, with such connection adaptation accommodating interconnection between said utilities-conduit structure and such external supplies in a manner avoiding any presence within the internal volume of said lower story.

Claim 5. (ORIGINAL) The building structure of claim 4, wherein said containment space is appropriately lined against the possibility of any liquid drainage taking place from its internal volume to that of said lower story.

Claim 6. (CURRENTLY AMENDED) A plural-story building structure comprising a vertical stack of stories including plural normal-height stories, and disposed vertically intermediate at least two of these stories, a less-than-normal-height sub-story, with the lower one of said at least two stories possessing an internal volume with an unimpeded full plate height, and,

an internal volume of ~~spaced~~ space formed in said sub-story, adapted to contain utilities-conduit structure relevant to the supply of utilities services upwardly from said sub-story toward the higher one of said at least two stories, with related utilities services supply to said utilities-conduit structure extending thereto in a manner avoiding any presence within the internal volume of the lower one of said at least two stories.

REMARKS/ARGUMENTS

In the Office action dated June 13, 2007, the Examiner objected to the claim of priority, given a typographical error in paragraph [0001] of the Specification as filed. This Response includes a correction to that paragraph, thus, a proper claim for priority is now made.

The Examiner objected to the drawings, and required that new drawings be provided, which drawings accompany this Response. The Examiner's statement that the drawings fail to show reference character "H₃" in Fig. 1 is correct, however, a closer reading of the Specification (Paragraph [0021], amended herein for other reasons) will reveal that the reference to H₃ is in Fig. 2, which clearly shows the reference character. Formal drawings are provided, as required by the Examiner, to clarify any misunderstanding.

The Examiner objected to the Specification, page 3, line 18, regarding Applicant's use of Standard American English: The sentence:

"In accordance with a preferred embodiment of the invention, the invention deals with this issue by proposing a building-construction approach whereby a full, normal floor-to-ceiling-height, lower-level (often ground-level) volume of space is topped by an uninterrupted, *and not later to be interrupted*, ceiling-structure continuum through which no utility structures extend."

contain the italicized phrase, which the Examiner deems to be not "comprehensible." Applicant is somewhat taken aback by this objection, as the phrase in question is a perfectly understandable modifier to the immediately preceding adjective "uninterrupted," whose meaning should be clear to any person. However, to further prosecution of this Application, Applicant has amended the offending language in more simple terms. This does not constitute new matter. See, Specification, paragraph [0002] which contains much the same language as now presented in

paragraph 0008.

The Examiner has objected to claims 1, 4 and 6 as not having a colon after the word “comprising” in the Preamble. If the Examiner is able to provide some authority for requiring such construction, the authority should be provided, otherwise, the claims are acceptable as originally presented.

The examiner noted typographical errors in the Specification and Claims, which have been corrected by this Response.

The Examiner rejected claims 1 and 4 under 35 U.S.C. § 112, 2d paragraph, the Examiner being unable to comprehend Applicant’s Standard American English. The Examiner states that the phrase “directly vertically intermediate” is not comprehensible.

com·pre·hen·si·ble (kŏm’prĭ-hĕn’sə-bəl) *adj.* Readily comprehended or understood; intelligible. [Latin *comprehēnsibilis*, from *comprehēnsus*, past participle of *comprehendere*, to comprehend. See COMPREHEND.]

It would appear that the problem is the Examiner’s, not Applicants. This point is proved, as the Examiner then states that “...the phase is taken to mean directly in between two vertically stacked stories.” This is correct - the Examiner has substituted a synonym of “intermediate,” *i.e.* “in between” for the word used by Applicant. This works, but Applicant is permitted to select the words used in the Applicant’s claims.

in·ter·me·di·ate (ĭn’tər-mĕ’dē-ĭt) *adj.* *Abbr.* **inter.**, **int.** **1.** Lying or occurring between two extremes or in a middle position or state: *an aircraft having an intermediate range; an intermediate school.* -- **in·ter·me·di·ate** *n.* *Abbr.* **inter.**, **int.** **1.** One that is in a middle position or state. **2.** An intermediary. **3. Chemistry.** A substance formed as a necessary stage in the manufacture of a desired end product. **4.** An automobile that is smaller than a full-sized model

but larger than a compact.

Clearly, “intermediate” and “between” are synonymous terms. If there is a problem with the Examiner’s comprehension of Applicant’s terms, the Examiner should get a good dictionary, rather than requiring Applicant to word claims and specifications to incorporate words which the Examiner understands. Perhaps a “Word-a-Day” calendar will help. The 35 U.S.C. § 112, 2d paragraph rejection must be withdrawn, as it is not appropriate, and clearly has no basis, as the Examiner really does comprehend the meaning of the claim language.

Finally, getting to the merits of the Office action, the Examiner rejected claims 1-3 and 6 under 35 U.S. C. § 102(e) as being anticipated by U. S. Patent No. 6,625,937 B1 to Parker *et al.* Claims 4 and 5 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over ‘937 in view of U. S. Patent No. 4,341,052 to Douglass, Jr.

In the Specification, paragraphs 0001 and 0021 are amended to correct typographical errors. Paragraph 0008 is amended to more simply explain Applicant’s invention.

In the Claims, claim 6 is amended to correct a typographical error.

The Invention

The invention is for a mixed-use building structure, and more specifically to such structure which includes, immediately over a selected lower floor, such as a ground-level floor, an overhead sub-story that accommodates a utilities-conduit bypass for the immediate lower floor. This bypass provides the internal volume wherein the lower floor can be defined by a full, unoccluded plate-height, which, in turn, allows for the lower-level occupancy early in the process of building construction. Plate-height in this space, *i.e.*, that vertical dimension in the space which

extends from floor plane to ceiling plane, also referred to as a continuum, is unoccluded in the sense that no utilities-conduit structures, such as water pipes, gas lines, electrical conduits, etc., ever extend directly into the space, and through the ceiling plane, in the context of providing utility services to building floors which are above that lower-level story.

The Applied Art

U. S. Patent No. 6,625,937 B1 to Parker *et al.* describes a building technique for fabricating modular units for incorporation into a building, which may consist of one or more units, and which may be single or multi-story.

U. S. Patent No. 4,341,052 to Douglass, Jr. describes a technique of constructing a residential building wherein a utility core is centrally located within a living unit, on the same floor as the living unit, and wherein utility cores are vertically stacked above one another in the building.

The Claims

The Examiner bases the rejection of all claims on an Examiner-modified Fig. 6 of '937. Unfortunately, the Examiner's notations are not supported by the teachings of the Specification, the other drawings, or the claims of '937. As the Examiner has rejected several claims under 35 U.S. C. § 102, these rejections are not valid, as the applied art does not teach nor suggest the annotated Fig. 6 on which the rejections are based.

Claim 1 stands rejected under 35 U.S. C. § 102(e) as being anticipated by the Examiner's annotated version of '937. Claim requires, *inter alia*:

a utilities-conduit containment space in the form of a sub-story
disposed independently and directly vertically intermediate said

lower and higher stories, possessing a less than normal full plate-height internal volume, and adapted to contain utilities-conduit structure relevant to the supply of utilities services upwardly from said containment space toward said higher story, with related utilities services supply to said utilities-conduit structure extending thereto in a manner avoiding any presence within the mentioned internal volume of said lower story.

The Examiner states that '937 teaches such a utilities-conduit containment space. This is not true. The Examiner's annotation of '937 Fig. 6 identifies a space between modules of a building. '937 does not teach nor suggest running utilities through this space. See '937, col. 1, lines 51-58 and col. 3, lines 18-23. Further, a requirement of claim 1 is that the utilities avoid any presence within the internal volume of the lower story. '937 clearly states that the utilities occupy space in the lower story. Col. 1, lines 51-58, col. 3, lines 18-23, and Figs 1 and 2. Whether the Examiner's modified '937 Fig. 6 contains a utilities-conduit containment space, as defined in claim 1, is doubtful, however, there is no teaching nor suggestion IN '937 that such a containment space exists, thus rendering the 35 U.S. C. § 102(e) rejection, and any future 35 U.S.C. § 103(a) rejection, invalid. Looking at original '937 Fig. 6 and the specification for '937, it is pretty clear that the modules are constructed, brought to the building site, and then stacked, side-by-side and vertically, thus the requirement for projection pieces 63, which serve to align and horizontally fix the various modules. However, as stated in '937, the utilities are pretty much in place by the time the modules leave the factory, thus, there is no need to run utilities through the space between the perimeter support beam 61, which is part of the ceiling of a module, and structural steel C-channel beam 42, which is the floor of a module. Claim 1 is allowable over the applied 35 U.S. C. § 102(e) art.

Claim 2 requires that the containment space be lined to prevent liquid drainage into the lower story. The Examiner states that steel “support beams” 61 provide this function, as steel is water impervious. Initially, reference 61 of ‘937 are described as “perimeter support beams,” col. 5, lines 23-29, which provide [support] for the ceiling of the lower modules. The Examiner seems to have omitted the word “perimeter” from the definition of element 61. Presumably, it is not necessary to provide a dictionary definition of “perimeter” for the Examiner, which generally means extending about the periphery, thus precluding the “lining” function of perimeter support beams 61 as contended by the Examiner. There is no teaching nor suggestion in ‘937 that the ceiling of the building modules is in any way lined against the possibility of liquid drainage taking place from the containment space to the lower story. In fact, the reverse seems to be true, as provision is made in ‘937 to connect utilities between floors. Again, the Examiner 35 U.S. C. § 102(e) rejection is not proper and must be withdrawn.

Claim 3 is allowable with its allowable parent claim.

Claim 4 includes the limitations of allowable claim 1, and additionally requires that “...supply-input portions...are external to the building structure...in a manner avoiding any presence within the internal volume of said lower story.” The Examiner states that such structure is not shown in ‘937, which is correct, but that Douglass, Jr., ‘052 shows such structure, citing ‘052 element 30 as a containment space, and elements 160, 162, 170, and 140 as supply-input portions. Clearly, the Examiner does not comprehend the teachings of ‘052. Initially, the containment space is *above* the lower story: ‘052 element 30 is identified a ‘master bathroom.” A utility core 10 is located between (or intermediate) the master bathroom 30 and a guest bathroom

32, all of which are on the same level. Col. 4, lines 5-14. The so-called supply-input portions 160 (a hole), 162 (another hole), col. 5, lines 52-57, 170 (a drain pipe), col. 5, lines 57-62, and 140 (sewer stub-up) col. 5, lines 20-24, all occupy space in the structure on the same level with the occupied volume of the first story. Thus, the applied portions of '937 and '052, taken alone or in combination, do not teach nor suggest the limitations of claim 4, which is allowable over the applied 35 U.S.C. § 103(a) art.

Claim 5 is allowable for the reasons set forth in connection with claim 2.

Claim 6 is allowable over the applied 35 U.S. C. § 102(e) art, in that the utilities as shown in '937 occupy a portion of the internal volume of the lower story. See Figs 1 and 2, which contain bathrooms and kitchens, and which do not teach nor suggest bringing utilities into the structure to avoid a presence within the structure when same comprises a lower story.

It should be noted that the amendments made to the claims do not introduce any limitation not found in the claims as-filed.

In light of the foregoing amendment and remarks, the Examiner is respectfully requested to reconsider the rejections and objections state in the Office action, and pass the application to allowance. If the Examiner has any questions regarding the amendment or remarks, the Examiner is invited to contact the undersigned.

Provisional Request for Extension of time in Which to Respond

Should this response be deemed to be untimely, Applicants hereby request an extension of time under 37 C.F.R. § 1.136. The Commissioner is hereby authorized to charge any

additional fees which may be required, or credit any over-payment to Account No. 22-0258.

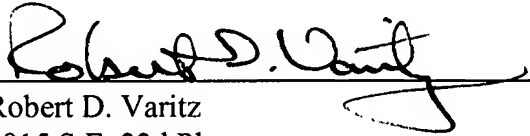
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Respectfully Submitted,

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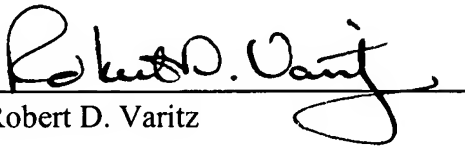
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I hereby certify that the attached Response to Office Action under 37 C.F.R. § 1.111 is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. 1.10 on the date indicated above and is addressed to:

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
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